

Amendment No. 1 to HB0986

Fowlkes
Signature of Sponsor

AMEND Senate Bill No. 1659

House Bill No. 986*

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 63, Chapter 2, Part 1, is amended by adding the following language as a new, appropriately designated section:

(a) Notwithstanding the above provisions or any other law to the contrary, any express or implied contract, covenant or agreement to keep medical information confidential is waived under any of the following circumstances:

(1) The patient, conservator or guardian or other legal representative of the patient gives express consent; or

(2) If the patient is deceased, the spouse of the patient or the executor or administrator of the patient's estate gives express consent; or

(3) When the patient brings a civil action pursuant to §29-26-115, et. seq. and the medical information relates to medical treatment in controversy or the damages alleged and is requested by a party to the litigation; or

(4) When a party brings a wrongful death action in regard to the death of the patient that is also a civil action pursuant to §29-26-115, et. seq. and the medical information relates to medical treatment in controversy or the damages alleged and is requested by a party to the litigation; or

(5) When records are requested by authorized departmental representative(s) in compliance with §63-1-117.

(b) In a civil action under subdivision (a)(3) and (4), the determination of that information which is discoverable shall be governed by the Tennessee Rules of Civil Procedure and that information which is admissible shall be governed by the Tennessee Rules of Evidence.

(c) No ex parte discussion or meeting shall occur between an attorney having an interest in a civil action described in subdivision (a)(3) or (4), or a representative of such an attorney, and a physician or other medical professional concerning a patient's medical information unless a court reporter is present during the entirety of such discussion or meeting and a record is kept. Such record shall be filed with the court and kept under seal for an in camera review by the court to determine if the medical information relates to medical treatment in controversy or the damages alleged and is otherwise discoverable.

SECTION 2. Tennessee Code Annotated, Section 68-11-1503, is amended by adding the following new, appropriately designated subsections:

(d) Notwithstanding the above provisions or any other law to the contrary, any express or implied contract, covenant or agreement to keep medical information confidential is waived under any of the following circumstances:

(1) The patient or guardian or other legal representative of the patient gives express consent; or

(2) If the patient is deceased, the spouse of the patient or the executor or administrator of the patient's estate gives express consent; or

(3) When the patient brings a civil action pursuant to §29-26-115, et. seq. and the medical information relates to medical treatment in controversy or the damages alleged and is requested by a party to the litigation; or

(4) When a party brings a wrongful death action in regard to the death of the patient that is also a civil action pursuant to §29-26-115, et. seq. and the medical information relates to medical treatment in controversy or the damages alleged and is requested by a party to the litigation; or

(5) When records are requested by authorized departmental representative(s) in compliance with §63-1-117.

(e) In a civil action under subdivision (d)(4) and (5) the determination of that information which is discoverable shall be governed by the Tennessee Rules of Civil

Procedure and that information which is admissible shall be governed by the Tennessee Rules of Evidence.

(f) No ex parte discussion or meeting shall occur between an attorney having an interest in a civil action described in subdivision (d)(3) or (4), or a representative of such an attorney, and a physician or other medical professional concerning a patient's medical information unless a court reporter is present during the entirety of such discussion or meeting and a record is kept. Such record shall be filed with the court and kept under seal for an in camera review by the court to determine if the medical information relates to medical treatment in controversy or the damages alleged and is otherwise discoverable.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.